IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 5403 of 1992

RAMCHANDRA & ORS
V/S
STATE OF RAJ. & ORS

Mr. GR BHARI for Mr.SANJAY MATHUR, for the petitioner

Mr. KR SARAN for Mr.SAJJAN SINGH, for the respondent
Mrs. RR KANWAR, AGA

Date of Order : 25.4.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

The petitioners by this petition seek to challenge the land acquisition proceedings, being taken vide notification Annex.3 and Annex.5.

The facts of the case, as alleged in the writ petition are, that the land bearing Khasra No.255/372 is ancestral property of the petitioners, as is clear from Jamabandi of Samvat Year 2045-2048 Annex.1. Then it is alleged that in the notification issued under Section 4 of the Land Acquisition Act, 1894, hereinafter to be referred to as the Act, dated 23.3.89, being Annex.3, Khasra No.107 was shown in the name of one Laduram son of Shivji. So far Khasra No.255/372 is concerned, it was not shown to be that of the petitioners. Then it is alleged, that Housing Board prepared a statement with respect to the land, which is sought to be acquired, copy whereof is produced as Annex.4,

and therein Khasra No.255/372 does not appear, however, the petitioners received the notice dated 26.9.92, Annex.5, being the notice under Section 9(1) of the Act, reciting that notification under Section 17(4) has been issued on 21.5.92, and in this notice, land of Khasra No.255/372 is shown, likewise the land of Khasra No.107 is also shown. These acquisition proceedings have been challenged on the ground, that regarding land bearing Khasra No.255/372 there is no notification under Section 4, and that in the notification Annex.3, the land sought to be acquired is of Laduram son of Shivji in Khasra No.255/372, which has appeared for the first time in the notice Annex.5, while the land belongs to the petitioner. Then it is pleaded that the notification under Section 17(4), and notice under Section 9(1), were not served on the petitioner. Then it is also challenged on the ground, that notification under Section 6 read with Section 17(4) has been issued after expiry of one year from the date of notification under Section 4(1), which was issued on 22.3.90. Then invocation of urgency clause has also been challenged on the ground of post notification delay, between issuance of notification under Section 4 and Section 17(4). Then certain objections have been raised about want of publication of notification under Section 4.

A reply to the writ petition has been filed on behalf of the Housing Board, pleading that land comprised

in Khasra No.255/372 has also been notified to be acquired. It is pleaded, that after the notification under Section 4 produced by the petitioner, another notification under Section 4(1) was issued on 9.10.91 being Annex.R/3, wherein, at item No.5 land bearing Khasra No.255/372 is shown, and at item No.2 land bearing Khasra No.107 is shown. Then it is pleaded that since correct Khasra numbers have been disclosed in the notifications, which have been duly published, individual notice is not required to be given to the petitioners, even if there is some error in the mention of the name of the Khatedar. Then it is pleaded that Section 4 notification was duly published in the Rajasthan Patrika on 17.10.91, and in two local daily newspapers, being Jalte Deep on 22.11.91, and Dainik Jangan also on 22.11.91, and photostat copies of the gazette notification dt.17.10.91, alongwith the newspapers, have been filed as Annex.R/3, R/4 and R/5 respectively. Likewise, it is also pleaded, that notification under Section 17(4) has also been duly published, in that regard Annex.R/6 and R/7 have been filed, and local publication of the notifications by it being pasted at various notice boards has also been pleaded. Then regarding lapse of time, it is pleaded, that Section 4 notification has been published in Rajasthan Patrika on 17.10.91, while the contention has been raised on behalf of the petitioner on the basis of notification dated 23.3.89, as against which since the proceedings are being taken on the basis of

notification dt.9.10.91, the contention is misplaced, and notification under Section 6 has been issued within time. Then it is pleaded, that the answering respondents had deposited the amount required under Section 17(3-A) towards the cost of compensation vide Annex.R/27 and R/28, respectively. Thus, the impugned action was sought to be supported.

Having heard the learned counsel and having gone through the record available, I find, that notifications under Section 4 and 6 read with Section 17 have been duly published in accordance with law, vide various publications referred to above. So far the alleged delay is concerned, it is clear from Annex.R/3, that acquisition proceedings are being taken pursuant to the notification dated 9.10.91, and not of March 1989, and Section 17 notification has been issued on 3.4.92, which cannot be said to be belated, apart from the fact, that the only ground to challenge the action under Section 17(4) is the delay, said to have taken place during the period between issuance of notification under Section 4 and Section 17, which by itself, without anything more, cannot, in my view, vitiate the invoking of powers under Section 17(4), in view of the repeated judgments of Hon'ble the Supreme Court. Then so far as the wrong mention of the name of the person being khatedar of the land, instead of the petitioner is concerned, in that regard also it may be observed here, that the public notice of the

notifications is given, giving the identity of the land, and therefore, any person interested in the land can raise objections or challenge the action. In that view of the matter, mere omission of the mention of the correct name of the petitioner is hardly of any consequence. Then regarding land bearing Khasra No.255/372 having not been notified, true it is that it is not identified in the notification dated 23.3.89 Annex.3, but then as the stand of the respondent is, that the acquisition proceedings are being taken in pursuance of the notification Annex.R/3 dated 9.10.91 and therein, as noticed above, this land is very much included at item No.5, therefore, this contention also has no force.

Thus, taken from any standpoint, I do not find any sufficient ground to interfere in favour of the petitioner, to quash the land acquisition proceedings. It may, by the way, be also observed, that another writ petition was filed challenging this very acquisition, with respect to land bearing Khasra No.85, and that writ petition has also been dismissed by this Court, way-back in the year 1999.

The net result of the aforesaid discussion is, that the writ petition has no force, and is dismissed. The parties shall bear their own costs.

(N P GUPTA),J.

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